

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

18-CR-108-EAW

ROBERT MORGAN, FRANK GIACOBBE, TODD
MORGAN, AND MICHAEL TREMITI,

Defendants.

**STIPULATION BY AND AMONG THE UNITED STATES OF AMERICA, ROBERT
MORGAN, TODD MORGAN, PARK PLACE PITTSBURGH I LLC, PARK PLACE
PITTSBURGH LLC, AND MP KOFJ JV LLC**

With regard to United States of America's criminal forfeiture allegations set forth in the Superseding Indictment in the above-referenced action, incorporated by reference herein, the United States of America, Robert Morgan, Todd Morgan, and MP KofP JV LLC (collectively the "Parties") hereby stipulate as follows.

1. Whereas Rochester Village Apartments at Park Place, Reserve at Southpointe I, Villas of Victor, Park Place of South Park, and The Links at Centerpointe Townhomes are real properties subject to forfeiture allegations in the Superseding Indictment, 18-CR-108-EAW (Dkt. 42) (the "Superseding Indictment"), incorporated herein by reference.

2. WHEREAS the Parties entered into a stipulation on October 23, 2019 (the "Criminal Joint Venture Stipulation") whereby MP KofP JV LLC (the "Joint Venture") would acquire and operate properties including Rochester Village Apartments at Park Place, Reserve at Southpointe I, Villas of Victor, Park Place of South Park, and The Links at Centerpointe, and in exchange for the properties, the Joint Venture would issue units in the Joint Venture ("JV

Units”) to Interest Contributors (as defined in the Contribution Agreement) with ownership interests in the properties equal in value to the agreed-upon equity value of the Interest Contributors’ ownership interest in the properties. (Dkt. 128).

3. WHEREAS the Criminal Joint Venture Stipulation contemplated that Park Place Pittsburgh LLC (the entity that owns Rochester Village Apartments at Park Place) would be contributed to the Joint Venture. (Dkt. 128 at ¶ 6).

4. WHEREAS the Parties plan to contribute 87.5% of the direct ownership interests in Park Place Pittsburgh LLC and 100% of the direct ownership interests in Park Place Pittsburgh I LLC (the parent entity of Park Place Pittsburgh LLC and thus an indirect owner of Rochester Village Apartments at Park Place), instead of Park Place Pittsburgh LLC, on or about September 17, 2020.

5. WHEREAS the Criminal Joint Venture Stipulation contemplated that The Villas of Victor, LLC would be contributed to the Joint Venture. (Dkt. 128 at ¶ 8).

6. WHEREAS The Villas of Victor Apartments Owner KofP LLC (a wholly owned subsidiary of The Villas of Victor, LLC), was contributed instead of The Villas of Victor, LLC on or about October 25, 2019.

7. WHEREAS the Criminal Joint Venture Stipulation contemplated that Park Place of South Park Apartment Homes LLC (the entity that owned Park Place of South Park) would be contributed to the Joint Venture. (Dkt. 128 at ¶ 9).

8. WHEREAS 88% of the direct ownership interests in Park Place of South Park Apartment Homes LLC and 100% of the direct ownership interests in Park Place of South Park LLC (the parent entity of Park Place of South Park Apartment Homes LLC and thus an indirect

owner of Park Place of South Park), were contributed instead of Park Place of South Park Apartment Homes LLC on or about October 25, 2019.

9. WHEREAS the Criminal Joint Venture Stipulation contemplated that The Reserve at Southpointe LLC (the entity that owned Reserve at Southpointe I) would be contributed to the Joint Venture. (Dkt. 128 at ¶ 7).

10. WHEREAS 88% of the direct ownership interests in The Reserve at Southpointe LLC and 100% of the direct ownership interests in Southpointe Pittsburgh 1, LLC (the parent entity of The Reserve at Southpointe LLC and thus an indirect owner of Reserve at Southpointe I) were contributed instead of The Reserve at Southpointe LLC on or about October 25, 2019.

11. WHEREAS the Criminal Joint Venture Stipulation contemplated Morgan Canandaigua Land LLC would be contributed to the Joint Venture. (Dkt. 128 at ¶ 10).

12. WHEREAS Centerpointe Apartments Owner KofP LLC (a wholly owned subsidiary of Morgan Canandaigua Land LLC and the entity that owned The Links at Centerpointe Townhomes) was contributed instead of Morgan Canandaigua Land LLC on or about October 25, 2019.

13. WHEREAS the substitution of entities contributed to the Joint Venture described in paragraphs 5 through 12 of this stipulation did not impact the transfer of ownership of the Criminal Forfeiture Properties contemplated in the Criminal Joint Venture Stipulation, and did not impact the number or distribution of equity units as identified in the November 8, 2019 letter from MP KofP JV LLC to the government.

14. The Parties agree that 87.5% of direct ownership interests in Park Place Pittsburgh LLC and 100% of the direct ownership interests in Park Place Pittsburgh I LLC may be contributed to the Joint Venture instead of Park Place Pittsburgh LLC.

15. The Parties agree that upon the contribution of 87.5% of direct ownership interests in Park Place Pittsburgh LLC and 100% of the direct ownership interests in Park Place Pittsburgh I LLC, the Criminal Joint Venture Stipulation shall be construed as if “87.5% of direct ownership interests in Park Place Pittsburgh LLC and 100% of the direct ownership interests in Park Place Pittsburgh I LLC” replaced the term “Park Place Pittsburgh LLC.”¹

16. The Parties agree that substitution of entities contributed to the Joint Venture described in paragraphs 5 through 12 of this stipulation did not violate the terms of the Criminal Joint Venture Stipulation or impact the rights of the Parties thereunder.

17. The Parties agree that the Criminal Joint Venture Stipulation shall be construed as if “The Villas of Victor Apartments Owner KofP LLC” replaced the term “The Villas of Victor, LLC.”

18. The Parties agree that the Criminal Joint Venture Stipulation shall be construed as if “88% of the direct ownership interests in Park Place of South Park Apartment Homes LLC and 100% of the direct ownership interests in Park Place of South Park LLC” replaced the term “Park Place of South Park Apartment Homes LLC.”²

19. The Parties agree that the Criminal Joint Venture Stipulation shall be construed as if “Centerpointe Apartments Owner KofP LLC” replaced the term “Morgan Canandaigua Land LLC.”

¹ For the avoidance of doubt in construing the description of property ownership in ¶ 6 of the Criminal Joint Venture Stipulation, Park Place Pittsburgh LLC is the direct owner of Rochester Village Apartments at Park Place, and Park Place Pittsburgh I LLC holds an indirect interest in Rochester Village Apartments at Park Place.

² For the avoidance of doubt in construing the description of property ownership in ¶ 9 of the Criminal Joint Venture Stipulation, Park Place of South Park Apartment Homes LLC was the direct owner of Park Place of South Park, and Park Place of South Park LLC held an indirect interest in Park Place of South Park.

20. The Parties agree that the Criminal Joint Venture Stipulation shall be construed as if “88% of the direct ownership interests in The Reserve at Southpointe LLC, and 100% of the direct ownership interests in Southpointe Pittsburgh 1, LLC” replaced the term “The Reserve at Southpointe LLC.”³

21. Nothing in this stipulation shall be construed to supersede the Criminal Joint Venture Stipulation or impact the rights of the Parties under that stipulation (or any other stipulation in this or any other matter) except as specifically described herein.

Dated: September 17, 2020

By: JAMES P. KENNEDY, JR.
United States Attorney

/s/ Mary Clare Kane

Mary Clare Kane
Assistant United States Attorney
United States Attorney’s Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202

ROBERT C. MORGAN

By: /s/ Robert C. Morgan
*Manger of Park Place Pittsburgh I LLC and Park
Place Pittsburgh LLC*

³ For the avoidance of doubt in construing the description of property ownership in ¶ 6 of the Criminal Joint Venture Stipulation, The Reserve at Southpointe LLC was the direct owner of Reserve at Southpointe I, and Southpointe Pittsburgh 1, LLC held an indirect interest in Reserve at Southpointe I.

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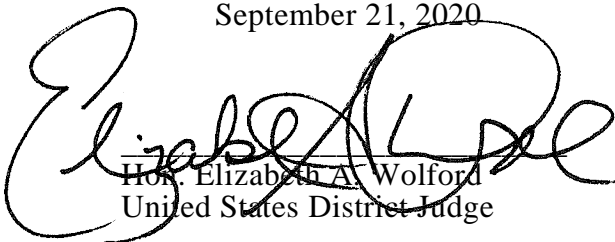
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Victor Apartments Owner KofP LLC, Park Place
of South Park Place Owner KofP LLC, and
Centerpointe Apartments Owner KofP LLC*
1271 Avenue of the Americas
New York, New York 10020

SO ORDERED:

Dated: Rochester, New York
September 21, 2020



Hon. Elizabeth A. Wolford
United States District Judge